

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	WC Docket No. 05-337
Universal Service Seeking Comment)	
on the Merits of Using Auctions to)	
Determine High-Cost Universal)	CC Docket No. 96-45
Service Support)	

**REPLY COMMENTS
OF
THE OREGON TELECOMMUNICATIONS ASSOCIATION
SMALL COMPANY COMMITTEE,
THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION
AND
THE MONTANA TELECOMMUNICATIONS ASSOCIATION**

July 2, 2007

I. INTRODUCTION AND SUMMARY

The Montana Telecommunications Association (“MTA”),¹ the Oregon Telecommunications Association Small Company Committee (“OTASCC”)² and the Washington Independent Telephone Association (“WITA”)³ are joining together to file these Reply Comments. The members of MTA, OTASCC and WITA are rural telephone companies that provide telecommunications services to high-cost, low-density areas in the States of Oregon and Washington.

In these Reply Comments, MTA, OTASCC and WITA advocate that if reverse auctions are to be used at all, they must be implemented carefully, slowly and on a trial basis. The disincentive for investment in rural areas that may come with reverse auctions requires extremely careful consideration before implementation begins.

MTA, OTASCC and WITA strongly advocate the elimination of the Identical Support rule. The Identical Support rule is not technologically neutral and has long outlived any usefulness it might have once had. The elimination of the Identical Support rule is the first step in long-run universal service fund reform.

Beyond elimination of the Identical Support rule, MTA, OTASCC and WITA advocate that additional long-run universal service fund reform can be helped by adoption of a meaningful public interest test. Further, long-run universal service fund reform can be assisted by moving to a new support mechanism, specifically the working number concept. Further, long-run universal service fund support reform can be enhanced through the use of an eligible telecommunications

¹ The Montana companies participating in the MTA Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of MTA.

² The Oregon companies participating in the OTASCC Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of OTASCC.

³ The Washington companies participating in the WITA Reply Comments are the same as those identified in the Opening Comments that were filed on behalf of WITA.

carrier (ETC) threshold such as that advocated by the National Association of State Utility Consumer Advocates (“NASUCA”). Under this concept, in those areas where high-cost universal service support is above a per-line threshold (NASUCA uses a \$30.00 per line, per month threshold) then only one ETC is appropriate. This concept is based upon the need to be sure that universal service support meets the requirement of Section 254 that such support be “sufficient and predictable.”

II. IF REVERSE AUCTIONS ARE TO BE USED AT ALL, THEIR INTRODUCTION MUST BE CAREFUL AND WELL-PLANNED

The use of reverse auctions for high-cost universal service funding is very controversial. A number of commenters heavily criticize the use of reverse auctions in the opening round of comments. For example, some segments of the wireless industry argue that any of the existing auction proposals unfairly favor the incumbent wireline carrier and are inconsistent with the principles embodied in Section 254. These comments argue that auction proposals would lead to regulation of wireless rates and would stifle competition and innovation.⁴

In the opening round of comments, commenters pointed out the difficulty of designing a functional reverse auction system. As stated in the comments of Consumers Union and Consumer Federation of America: “Though the idea of reverse auctions is appealing from a theoretical standpoint...the idea remains untested and is fraught with potential program design hazards.”⁵ Consumers Union and Consumer Federation of America go on to point out that some of the problems that are encountered in auction design including a need to design a system where

⁴ Comments of Rural Cellular Association and the Alliance of Rural CMRS Carriers at p. 32-37. See, also, Comments of United States Cellular Corporation and Rural Cellular Corporation at p. 33-38.

⁵ Comments of Consumers Union, Consumer Federation of America and Free Press (“Consumers Union, et al.”) at p. 53.

the participants are not encouraged to overbid. Another issue they identify is developing the correct contract length. If contract length of service support is too short, carriers have a reduced incentive to make capital investments or provide high level customer care and support. If the contract term is too long, it locks out innovative competition.⁶ Finally, they point to academic research that reverse auctions just do not work.⁷

Perhaps the biggest concern over the use of reverse auctions to determine high-cost universal service support is the potential effect this may have on investment in rural areas. A great deal of weight should be given to the comments submitted by CoBank.⁸ CoBank identifies that it has 2.9 billion dollars in loan commitments to over two hundred rural communication companies nationwide.⁹ CoBank cautions that “[r]everse auctions have the potential to severely disrupt the provisioning of universal service to rural America.”¹⁰

CoBank goes on to explain its concern:

Access to debt capital would be significantly reduced under a reverse auction system. Lenders demand a high degree of certainty about the repayment capacity of a borrower. In general, the higher level of uncertainty about future cash flow, the less debt capital is made available to a borrower. If the ILEC, or even a competitive ETC such as a wireless carrier, is faced with the possibility of losing access to universal support funding at some future auction date, then lenders will naturally wish to restrict the amount of debt made available to those borrowers as the auction date approaches. If a borrower loses its option bid, then it may be unable to repay its loans. This could impair the ability of service providers of all types to meet the growing telecommunication needs of rural Americans.¹¹

This alone should raise serious reservations concerning the use of auctions to determine high-cost support.

⁶ Consumers Union, et al. at p. 54.

⁷ *Ibid.*

⁸ Comments of CoBank, ACB.

⁹ Comments of CoBank, ACB at p. 2.

¹⁰ Comments of CoBank, ACB at p. 3.

¹¹ Comments of CoBank, ACB at p. 3-4.

Some comments reject the use of reverse auctions. As stated by OPASTCO, “The use of reverse auctions for rural ILECs should be rejected, as they would place at significant risk the continued availability of ‘reasonably comparable’ services and rates to consumers in rural service areas.”¹² OPASTCO goes on to point out that reverse auctions will discourage investment in rural infrastructure and may make obtaining debt financing on reasonable terms more difficult.

NTCA also doubts that reverse auctions are proper. NTCA underscores that “The object of high-cost support is to ensure that consumers in rural areas receive comparable services to those received by urban customers and that they are able to obtain those services at comparable rates.”¹³ NTCA describes a reverse auction system as “highly unlikely to achieve this objective.”¹⁴ NTCA goes on to identify the requirement in Section 254 that support be “specific, predictable, and sufficient” and concludes that “support to the lowest bidder is inconsistent with the notions that companies must invest in networks to maintain service and that the evolution of the definition of universal service requires additional and timely investment in new technologies.”¹⁵

Many of those commenters that offer at least tepid support for some form of reverse auction proposal would limit the use of reverse auctions to tests or special circumstances. For example, NASUCA does not see the need for an auction system to be adopted.¹⁶ However, NASUCA argues that if an auction concept is adopted, “a wireless auction should precede a

¹² Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at p. 12.

¹³ National Telecommunications Cooperative Association Initial Comments (“NTCA Comments”) at p. 7-8.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Comments of the National Association of State Utility Consumer Advocates on “Long-Term, Comprehensive High-Cost Universal Service Reform” (“NASUCA Comments”) at p. 7.

broader test of the auction process.”¹⁷ In discussing the Verizon auction proposal, NASUCA also agrees with Verizon that there should be an evaluation of the wireless auction process prior to proceeding to broaden the scope of auctions and also agrees that there is a need to evaluate the results of all the tests before broadening the design of the auction.¹⁸ It should be noted that NASUCA does not endorse the Verizon auction concept, but is stating that if a reverse auction system is adopted, the two-step process (wireless first) and the cautions of careful review offered by Verizon are good points to incorporate into such a system. As another example, Consumers Union and Consumer Federation of America support use of auctions only under a pilot program.¹⁹

CenturyTel suggests that reverse auctions should be used only in limited circumstances. CenturyTel points to two areas in which reverse auctions could be used. The first is where there are multiple CMRS carriers seeking support. In this situation, a reverse auction could be used to select a single wireless competitive ETC per market.²⁰ CenturyTel argues this reverse auction process could be undertaken to meet the Joint Board’s stated goals of minimizing the burdens of the fund on consumers and reducing fund growth, while not putting network infrastructure and, hence, universal service at risk.²¹

The second area where CenturyTel identifies that reverse auctions could be used is to determine who should serve currently unserved areas. This use of reverse auctions would have the effect of identifying the amount of support needed to bring telecommunications service to an area that does not have service today.²²

¹⁷ NASUCA Comments at p. 10.

¹⁸ Ibid.

¹⁹ Consumers Union, et al. at p. 55.

²⁰ Comments of CenturyTel, Inc. to May 1 Joint Board Public Notice (“CenturyTel Comments”) at p. 12.

²¹ Ibid.

²² CenturyTel Comments at p. 12-13.

In the Public Notice for this round of comments, the Joint Board asked for comment on the Verizon and CTIA proposals and on the broadband auction proposal from Alltel.²³ Given the direction of the initial round of comments, MTA, OTASCC and WITA will not comment specifically on the analyses of these proposals presented in the initial round of comments in any detail. However, MTA, OTASCC and WITA do endorse the concise critiques of those three auction models contained in NTCA's Comments.²⁴

For all of the reasons set out in the initial round of comments that are discussed above, MTA, OTASCC and WITA urge the Joint Board to maintain a very healthy skepticism about the viability of reverse auctions. If reverse auctions are to be used, they must be used very carefully and should be deployed only in limited circumstances.

III. THE IDENTICAL SUPPORT RULE MUST BE REMOVED

There is a very strong voice in the initial round of comments for removal of the Identical Support rule. MTA, OTASCC and WITA have advocated removal of the Identical Support rule in the past and continue to do so.

Perhaps the most succinct statement for removal of the rule is contained in the comments submitted by NASUCA. NASUCA emphasizes that it has argued for years that competitive ETC support should be based on the competitive ETC's own costs. NASUCA goes on to assert that "[i]t should be clear that the Identical Support rule is itself not competitively neutral. It is

²³ Public Notice, Federal-State Joint Board on Universal Services Seeks Comment on Long-Term, Comprehensive High-Cost Universal Service Reform, WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-2 (rel. May 1, 2007) at ¶2.

²⁴ NTCA Comments at p. 5-7.

competitively neutral to give each carrier only what it needs to ensure that its rates are affordable and reasonably comparable, **based on its own costs.**"²⁵ (Emphasis in original.)

The parties that argue for retention of the Identical Support rule are those wireless, competitive ETCs. These are the wireless, competitive ETCs that are currently drawing support based on the Identical Support rule.²⁶ In every other venue, these carriers argue that all things must be competitively and technologically neutral. What the arguments of the wireless, competitive ETCs demonstrate is one of two things: either (1) their costs are higher than the rural incumbent LEC, which belies their oft-repeated argument that wireless ETCs are more efficient, or (2) they know that their costs are lower than the incumbent ETC and are seeking to continue to reap a windfall of support that is higher than their costs.

This situation should not be allowed to continue. The Identical Support rule must be brought to an end.

IV. STEPS TOWARDS MEANINGFUL UNIVERSAL SERVICE REFORM

In addition to eliminating the Identical Support rule, MTA, OTASCC and WITA believe that there are other steps that the Joint Board can recommend be taken for high-cost universal service fund reform.

The first of these is to be sure that the contribution base is fundamentally sound. As some of the commenters note, this includes moving to a working telephone number basis for support.²⁷ It also includes requiring broadband providers to pay into the fund.

Another possible recommendation would be to give strong consideration to limiting the

²⁵ NASUCA Comments at p. 20.

²⁶ See, e.g., Comments of United States Cellular Corporation and Rural Cellular Corporation.

²⁷ See, e.g., AT&T Comments at p. 3-4.

number of ETCs in a single high-cost territory. NASUCA resurfaces the proposal by Billy Jack Gregg, a NASUCA representative and Joint Board member, that in rural study areas receiving \$30.00 per line, per month in support or more, it should be presumed that only one ETC, the incumbent LEC, should be designated.²⁸ Under the NASUCA stratification, if support is at or above \$20.00 per line, per month and less than \$30.00 per line, per month, there should be one competitive ETC. If the support is less than \$20.00 per line, per month, there would be no preset limit on the number of competitive ETCs that could be designated. MTA, OTASCC and WITA support the concept at the \$30.00 per line, per month level, but have no substantive comment on the other two stratifications.

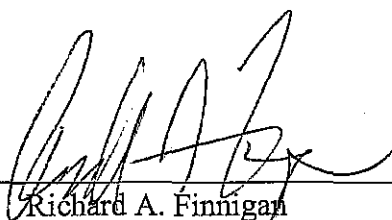
Both NTCA and NASUCA, among others, argue that the FCC's public interest test should be made mandatory for the states. MTA, OTASCC and WITA concur.

V. CONCLUSION

The removal of the Identical Support rule, capping of the number of ETCs available in very high-cost areas, and mandating the use of a stronger public interest test on the distribution side of the equation, and moving the contribution base to working telephone numbers and including broadband providers on the contribution side of the equation are all steps that can be taken in the near future to provide meaningful reform for the high-cost universal service fund program.

²⁸ NASUCA Comments at p. 21-22.

Respectfully submitted this 2nd day of July, 2007.

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